

APPENDIX A --- SUMMARY OF PUBLIC HEARING

At the Public Hearing on May 13, 2005, thirteen people testified before the Task Force members. Testimony from an additional 26 individuals and organizations was presented in writing to the members.

Persons testifying represented dentists, dental hygienists, and community and public health programs.

Supporters of increased reimbursement for dentists serving Medicaid clients stressed the need for making oral health a financial priority in Wisconsin. That financial commitment includes an increase in the number of covered Wisconsin students and in support for Marquette University School of Dentistry.

Opposition to the existing method of providing funding to the dental school was based on the fact that there are no assurances that the Wisconsin students would practice in Wisconsin.

A large share of the testimony focused on independent practice for dental hygienists. Supporters highlighted the importance of dental hygienists in providing preventive care and oral health education. Supporters stated that dental hygienist's training is currently under-utilized in Wisconsin so the recommendations made by this Task Force could have a great impact in promoting oral health. Many stressed the importance of their efforts to screen children for dental caries in settings such as schools, Head Start programs, and day cares.

Opponents of the recommendations made by the Task Force testified that dental hygienists are not qualified to provide oral diagnosis or restorative care, especially for the unique oral health care needs of Medicaid clients. They also pointed out that the independent practice of dental hygiene would not be economically viable and thereby would not ease the access problems in Wisconsin. Opponents noted that dental care is a team effort and only through the combination of prevention, education and restoration can a patient be restored to health.

Supporters of providing a more reasonable avenue for foreign trained dentists to receive licensure in Wisconsin testified that we are missing opportunities to hire qualified dentists who wish to practice in Wisconsin. Opponents point to the risks of licensing unqualified candidates.

All written testimony is available online at
http://dhfs.wisconsin.gov/health/Oral_Health/taskforce/index.htm

APPENDIX B --- LIST OF INDIVIDUALS WHO TESTIFIED

Eric teDuits, Children Dental Center of Madison
Eva Dahl, Wisconsin Dental Association
John Bartkowski, Sixteenth Street Community Health Center
Ned Murphy, Wisconsin Dental Association
Nicolet DeRose, Wisconsin Dental Association
Karen Ordians, Children's Health Alliance of Wisconsin
Kate Venne, AIDS Resource Center of Wisconsin
Emily Kinsell Berger, Wisconsin Dental Hygienists' Association
Kathleen Endres, Dental Hygiene Association of Wisconsin
Anne Hvizdak, Healthy Smiles for Portage and Wood County
Tammy Filipiak
Lori Dilley, Southwestern Wisconsin Community Action Program, Inc.
Jeff Moos, Midwest Dental

Submitted Written Testimony:

Mary Czech-Mrochinski, Marquette University
Shirley Gutkowski
Susan Klemm
The Brown County Oral Health Partnership
Marilyn Beck
Nancy Rublee
Teryl Frosch
Rhonda Akeson
Pamela Prenger
Kathy Williams
Tresa Kronberger
Brenda Heiser
Debbie Stieve
Wendy Ruesch
Sharon Haugerud, Rural Health Dental Clinic and the Dunn County Oral Health Coalition
Dawn Peetz
Beth Satchell
Faye Tetzloff
Angie Zunker
Suzanne Tack
Cristine Smith
Edward Dorff, Howe Elementary – Green Bay Area Public Schools
Tracy Ellis, Price County Health Department
Marsha Siik, Wisconsin Office of Rural Health, Dentist Placement Program
Marsha Alt
Gerry Born, Wisconsin Council on Developmental Disabilities

APPENDIX C --- RECOMMENDATIONS THAT REQUIRE LEGISLATION



Health Care Provider Loan Forgiveness Programs: The Task Force recommends continued or increased funding for the state's health care provider loan forgiveness programs and that the eligibility for the loans be linked to serving an unduplicated number of Medicaid or BadgerCare recipients not to fall below a certain minimum amount of claims paid or to serving in a dental health professional shortage area.



Wisconsin Residents at Marquette Dental School: The Task Force recommends that the state increase the annual funding from the Higher Educational Aids Board to support annual capitation payments for 50 Wisconsin students in each future class at the Marquette University School of Dentistry. Funding would begin in the Fall 2006 semester.



Marquette Dental School Subsidy for Wisconsin Students: The Task Force recommends that the state increase the tuition subsidy for Wisconsin residents who attend the Marquette School of Dentistry from \$8,753 to \$11,670 per year.



Soda Tax: The Task Force recommends the adoption of a tax on soda purchases (like the *Two Cents for Tooth Sense* plan) with the revenues going to the dental Medicaid program and other funding priorities as recommended by the Governor's Task Force to Improve Access to Oral Health.



Dental Medicaid Funding: The Task Force recommends a \$20 million annual increase in state funding to increase the dental reimbursement rate and require that future investments in the dental Medicaid program include pay-for-performance strategies that assure increased access, regardless of the delivery system (i.e. whether services are delivered through fee-for-service or through HMOs).



Dental Hygienist Workforce: The Task Force recommends that Wisconsin State Statutes be amended to align the dental hygienist scope of practice with accreditation standards and to allow dental hygienists to practice independently under that legal scope of practice.



* Regional Exams: The Task Force recommends that current law be amended to provide that an applicant may pass any one of the four regional exams for Wisconsin licensure. When a national exam is approved, passage of that exam would also allow an applicant to receive licensure in Wisconsin upon completion of required testing and application.



* Foreign-Trained Dentist Residency Program: The Task Force recommends that Wisconsin create a special training license available to foreign-trained dentists that would allow practice in an American Dental Education Association approved residency program leading to full licensure. The residency period would last a minimum of two years and could lead to full licensure. There should be a supervision requirement with endorsement for full licensure contingent on the supervisor attesting to competency. Licensure would also require passage of national boards, an approved exam, and Wisconsin's ethics and jurisprudence exam.

Recommendations Requiring Legislation (Continued)



* Foreign-Trained Dentist Licensure: The Task Force recommends that Wisconsin allow licensure of a foreign-trained dentist that completed an American Dental Education Association approved 2-year residency training program in an approved United States accredited school. Also, the dentist must have been licensed by and practiced in another state. Licensure would also require passage of national boards, an approved exam, and Wisconsin's ethics and jurisprudence exam.



Dental Delegation: Propose a state legislative initiative to expand a dentist's ability to delegate dentistry practices and procedures.



* EPSDT Periodicity Schedule: Coordinate the Early and Periodic Screening, Detection, and Treatment (HealthCheck) periodicity schedule with the American Academy of Pediatric Dentistry and the American Academy of Pediatrics recommendations which changes the age of the first screening from age 3 to age 1.



Community Water Fluoridation: The Task Force recommends an increase in state funding available for communities to fluoridate their water supply. The Task Force recommends providing \$25,000 in annual, non-lapsing funding.

May be Enacted as Legislation



Pilot program recommendations from the Task Force could be enacted through legislation or by using grant funds received from federal or private organizations.

- Oral Health pilots based on the Washington ABCD Kids Get Care program,
- School-Based program pilots,
- Safety net clinic pilots.










Regional portable equipment could be purchased as directed in legislation or using funds received from federal or private organizations.



Regional oral health staff hours could be increased as directed in legislation or using funds received from federal or private organizations.

** May be accomplished using legislation or the rule making process.*

APPENDIX D --- RECOMMENDATIONS WITH A FISCAL EFFECT

		Annual Cost State Funds
	Wisconsin Residents at Marquette Dental School: The Task Force recommends that the state increase the annual funding from the Higher Educational Aids Board to support annual capitation payments for 50 Wisconsin students in each future class at the Marquette University School of Dentistry. Funding would begin in the Fall 2006 semester.	\$1,750,600*
	Marquette Dental School Subsidy for Wisconsin Students: The Task Force recommends that the state increase the tuition subsidy for Wisconsin residents who attend the Marquette School of Dentistry from \$8,753 to \$11,670 per year.	\$1,867,200**
	Soda Tax: The Task Force recommends the adoption of a tax on soda purchases (like the <i>Two Cents for Tooth Sense</i> plan) with the revenues going to the dental Medicaid program and other funding priorities as recommended by the Governor's Task Force to Improve Access to Oral Health.	
	Dental Medicaid Funding: The Task Force recommends a \$20 million annual increase in state funding to increase the dental reimbursement rate and require that future investments in the dental Medicaid program include pay-for-performance strategies that assure increased access, regardless of the delivery system (i.e. whether services are delivered through fee-for-service or through HMOs).	\$20 million
	Oral Health Pilots: The Task Force recommends funding two pilot grant programs, based loosely on the Washington ABCD Kids Get Care program, across the state. The two-year grants would include annual funding for a case manager, a community educator, and materials and supplies. Pilots would be selected on ability to provide care and prevention to a wide group of children and based on the program's ability to be used as a model for other areas of the state.	\$200,000
	Regional Oral Health Staff: The Task Force recommends that the state fund five regional oral health consultants at a full-time level.	\$240,000
	Regional Portable Equipment: The Task Force recommends funding portable equipment at each Department of Health and Family Services public health region to be used in school based and community oral health programs for restorative and prevention services.	\$100,000 ***

Fiscal Recommendations (Continued)



Community Water Fluoridation: The Task Force recommends an increase in state funding available for communities to fluoridate their water supply. The Task Force recommends providing \$25,000 in annual, non-lapsing funding.

\$25,000



School-Based Oral Health Pilot: The Task Force recommends that the state provide \$100,000 annually to fund two-year pilot programs that coordinate local public health programs with school district dental programs. Grants would be awarded based on benefits of the initiative. Successful applicants would be required to provide local matching funds for the two years of the program.

\$100,000



Oral Health Safety Net Program Pilot: The Governor's Task Force recommends that the Governor appoint an ongoing State Oral Health Council to define criteria for a pilot project that would award grants to programs that provide dental care to those unable to access oral health care in the current system (like community clinics, FQHC expansions, hospital clinics, etc.). Grants would be awarded based on the criteria determined. Continued funding would result from meeting outcomes defined in the initial criteria.

\$200,000

** Upon attainment of 200 Wisconsin students at current per-student subsidy level.*

*** Assuming existing 40 Wisconsin students per year.*

**** One time cost.*

APPENDIX E --- ATTORNEY GENERAL'S OPINION



STATE OF WISCONSIN DEPARTMENT OF JUSTICE

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December 9, 2004

Mr. Steven M. Gloe
General Counsel
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53702

Dear Mr. Gloe:

You have asked the Attorney General's Office to comment on the circumstances in which a dental hygienist may apply dental sealants and fluoride treatments without a dentist authorizing or being present to supervise these procedures. We agree with your memorandum of October 19, 2004, and the memorandum of Daniel D. Stier, Chief Counsel of DHFS, dated April 1, 2004, regarding the circumstances in which a hygienist may independently provide these services.

Whether the application of dental sealants or fluoride treatments must be authorized or supervised by a dentist who is present on the premises depends primarily on where the hygienist provides these services.

The application of both dental sealants and fluoride treatments constitutes the practice of dental hygiene. The application of sealants is expressly defined as the practice of dental hygiene by Wis. Stat. § 447.01(3)(c) (2001-02). The application of fluoride has been added to the list of activities constituting the practice of dental hygiene by Wis. Admin. Code § DE 3.01(2)(e) (2000), under the authority granted to the Dentistry Examining Board by Wis. Stat. §§ 447.01(3)(g) and 447.02(1)(d) (2001-02).

A hygienist may ordinarily practice dental hygiene in a dental office, for a hospital or correctional facility, for a charitable institution, for a home health care agency, or for a dental care program for economically disadvantaged people only as authorized by a dentist who is present in the facility where the procedures constituting the practice of dental hygiene are performed. Wis. Stat. § 447.06(2)(a) and (b) (2001-02).

There are no such restrictions on the practice of dental hygiene for public and private schools, for dental schools or for local health departments. *See id.* So a hygienist may apply sealants or fluoride in these circumstances without the authorization or presence of a dentist. If a

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type of fluoride is used which is available only by prescription, however, it will have to be obtained under a prescription written by someone other than a hygienist who is legally authorized to prescribe controlled substances. *See Wis. Stat. § 447.06(2)(d).*

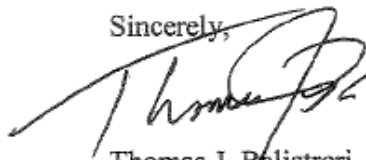
Moreover, even in the circumstances where dental hygiene must ordinarily be practiced in the presence of a dentist, a hygienist may apply sealants or fluoride without a dentist being present if these procedures are specifically prescribed orally or in writing by a dentist who has examined the patient within the preceding year, the patient knowingly consents, and, when the procedures are performed in a dental office, the patient has been a patient of the dentist for at least six months. *Wis. Stat. § 447.06(2)(c).*

An administrative rule of the Dentistry Examining Board appears to impose stricter requirements than the statutes regulating the practice of dental hygiene, providing that a "dental hygienist shall practice under the supervision of a licensed dentist in a dental facility or a facility specified in s. 447.08(4), Stats., if applicable." *Wis. Admin. Code § DE 3.01.*

However, *Wis. Stat. § 447.08* can never be applicable because it has been repealed. 1989 Wisconsin Act 349, § 28. And to the extent that the remainder of the rule may be inconsistent with present *Wis. Stat. § 447.06*, it would be invalid because an administrative agency cannot promulgate a rule which is inconsistent with an unambiguous statute. *Chvala v. Bubolz*, 204 Wis. 2d 82, 89, 522 N.W.2d 892 (Ct. App. 1996). This is not to say that the rule is invalid since it would be subject to a construction which could resolve any apparent difference with the statute, which in any case is controlling.

In sum, the statutes plainly delineate three circumstances where a dental hygienist may apply dental sealants or fluoride treatments without either the authorization or the presence of a dentist. There are other circumstances where a dental hygienist may apply dental sealants or fluoride treatments with the authorization but without the presence of a dentist.

Sincerely,



Thomas J. Balistreri
Assistant Attorney General

TJB:ajw

balistreri@mail.tickets/gloe, steven re dental hygienists applying sealants and fluoride.doc

APPENDIX F --- LEGISLATIVE PROPOSAL ON DENTAL HYGIENE

2005 – 2006 LEGISLATURE

LRB-2733/1

PJH:kjfrs

2005 BILL

1 AN ACT *to repeal* 447.06 (2) (a) 1., 2., 3., 4., 5., 6., 7. and 8., 447.06 (2) (b) and
2 447.06 (2) (c); *to renumber and amend* 447.06 (2) (a) (intro.); and *to amend*
3 447.01 (3) (d) of the statutes; **relating to:** dental hygienists.

Analysis by the Legislative Reference Bureau

Under current law, a licensed dental hygienist may perform dental hygiene only as an employee or as an independent contractor, and only in certain locations, such as a dental office, a school facility, a local health department, or for certain charitable or nonprofit dental care facilities. Current law requires a licensed dentist to be present at most of the facilities where the hygienist performs dental hygiene, unless certain conditions are met. This bill allows a dental hygienist to perform dental hygiene as a volunteer, an employee, or an independent contractor and removes the references to the specific locations at which the dental hygienist may perform. In addition, this bill eliminates the requirement that a dentist be present when a hygienist performs dental hygiene.

Current law also provides that a licensed dental hygienist may perform certain duties, including preparing a patient's case history or recording of clinical findings. This bill allows a licensed dental hygienist to present a patient's case history or recording of clinical findings to the patient.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

APPENDIX G --- PREVENTION AND RESTORATIVE PROGRAMS

Wisconsin has several state and federally funded programs that provide preventive dental services.

- **Community Water Fluoridation** is in effect in 283 systems. The program benefits 90 percent of the people on public water systems, but only 63 percent of the general population. It is funded in part from the federal Prevention Block Grant and in part from local taxes.
- **School-based Fluoride Mouth Rinse Program** provides school-based fluoride mouthrinsing programs to an estimated 10,023 children. It is funded by a state grant of \$25,000 GPR. In FY 01, requests for funding exceeded available funds.
- The **GuardCare** program provides medical clinical services for adults and children and dental clinical services for children for one week each year in underserved areas of the state. Members of the Wisconsin Army National Guard and other volunteers provide clinical services.
- The **Dietary Fluoride Supplement Program** provides supplements to an estimated 2,245 children. The program is funded by \$25,000 GPR through a grant program.
- **Healthy Smiles for Wisconsin (Seal a Smile)** screened 4,255 children in FY 03-04 and provided 12,344 dental sealants to 2,898 of them. The program is funded by \$60,000 GPR in grants available to communities. The Department received requests in excess of \$100,000 for this program.
- **Spit Tobacco Programs** provided a curriculum on tobacco avoidance to approximately 200 schools, for the use of a target population of 80,000 fifth graders. The program was funded by a grant from the Wisconsin Tobacco Control Board and is now funded through DHFS.
- **Medical Assistance** will cover prescriptions for fluoride drops or tablets for children whose water systems are not fluoridated. This can be supplied in a well-baby checkup.
- The federal and state government funds 14 **Federally Qualified Health Centers (FQHCs)**, which provide health and, in some cases, dental services to low-income populations. The state allocates \$3 million GPR annually to the FQHCs plus provides MA reimbursement. At least seven of these community health care centers use some of their state allocation to fund a dental program. Some of these clinics have six months waiting lists for dental services.
- The Department and its Medicaid HMO partners are conducting the **Healthy Teeth for Mom and Me** program, which seeks to integrate oral health care into the pre-natal and post-natal medical regimen of Medicaid-enrolled pregnant women in Milwaukee. The program operates under a grant from the federal Health Resources Services Administration.

- The **Maternal and Child Health (MCH) Block Grant** provides \$12,000 for school-based sealants.
- In past state budgets, GPR funds have been allocated to clinics that provide care in underserved areas of the state, for example, the **dental clinics in Ladysmith and Menomonie**. These clinics provide restorative and preventive dental care to low income populations. The 2005-07 will also allocate funds to clinics for the underserved.
- The Department provides \$2.8 million GPR to **Marquette University School of Dentistry** to provide clinic services and student clinical practicums to increase access to dental services for underserved populations. The grant gives dental students treatment experience with traditionally underserved populations and Medicaid recipients.
- The Department provides \$40,000 GPR annually to the Wisconsin Dental Association to administer the **Donated Dental Services Program**, under which volunteer dentists provide dental care to low-income individuals at no charge. The funding supports program expenses.
- The Department provides \$60,500 GPR annually to the **Marquette School of Dentistry Johnston Community Health Center Pediatric Dentistry Program**. This program helps support clinical dental services for children at the Johnston Community Health Center and also provides dental sealants to underserved children in elementary schools in Milwaukee. The primary target population for these funds is Hispanic children.
- **Regional Oral Health Consultants** are responsible for data collection and oral health prevention program development across Wisconsin. In 2003 they provided technical assistance to medical clinics and health departments, training over 175 physicians and nurses to integrate oral health measures into healthcare practice. Consultants are funded by a federal HRSA grant.
- **Wisconsin Oral Health Data Collection Plan**, monitors oral health status by Department of Health and Family Services Region and Statewide. Surveys should be repeated every three to five years.
- **Healthy Smiles for Head Start**, a survey of 456 children (aged 3-6 years) enrolled in Head Start, was conducted in 2003 to determine oral health status.
- The **Make Your Smile Count Survey** of children enrolled in third grade, assesses the need for oral health treatment among children in Wisconsin. The survey screened 3,307 third grade children in 2001 and will be repeated in 2006.
- The **Beyond Lip Service Grant Program** helps local health departments implement community water fluoridation; fluoride mouth rinse, varnish or supplement programs; and data collection programs. This three year grant, started in 2005, was funded at \$150,000 per year by the Wisconsin Partnership Fund for a Healthy Future.

APPENDIX H --- STATE, FEDERAL, AND TRIBAL DENTAL CLINICS

Federally Qualified Health Center Dental Service Sites

1. Scenic Bluffs Community Health Centers (Cashton/LaCrosse)
2. Family Health / La Clinica (Wautoma)
3. Family Health Center of Marshfield Family Dental Clinic (Marshfield/Ladysmith)
4. Bridge Community Health Clinic (Wausau)
5. Northern Health Centers, Inc. (Lakewood)
6. Beloit Area Community Health Center (Beloit)
7. Kenosha Community Health Center (Kenosha)
8. Milwaukee Health Services, Inc. (Milwaukee)
9. Sixteenth Street Community Health Center (Milwaukee)
10. Madison Community Health Center (Madison)

Wisconsin Technical College System Dental Hygiene Programs

1. Blackhawk (Janesville)
2. Chippewa Valley (Eau Claire)
3. Fox Valley (Appleton)
4. Lakeshore (Cleveland)
5. Madison Area (Madison)
6. Milwaukee Area (Milwaukee)
7. Northcentral (Wausau)
8. Northeast Wisconsin (Green Bay)
9. Waukesha County (Waukesha)
10. Western Wisconsin (LaCrosse)

Great Lakes Intertribal Dental Clinics

1. Forest County Potawatomi Health and Wellness Center (Crandon)
2. Ho-Chunk Nation Health Department (Black River Falls)
3. Lac Courte Oreilles Community Health Center (Hayward)
4. Menominee Tribal Clinic (Keshena)
5. Oneida Community Health Center (Oneida)
6. Peter Christensen Health Center (Lac du Flambeau)
7. Red Cliff Community Health Center (Bayfield)
8. Saint Croix Tribal Health Center (Webster)
9. Stockbridge-Munsee Health & Wellness Center (Bowler)

State Rural Health Dental Clinics

1. CESA 11 State Rural Health Dental Clinic Sites
 - Chippewa Valley Technical College (Menomonie)
 - St Joseph's Hospital (Chippewa Falls)
 - Sawyer County Health Department (Hayward)
 - Turtle Lake Dental Clinic (Turtle Lake)
2. Marshfield-Ladysmith Family Dental Clinic

Other Oral Health Providers

1. Office of Rural Health Outreach Grant: Mobile clinic rotates to Antigo (Langlade County), Merrill (Lincoln County), Rhinelander (Oneida County), and Laona (Forest County).
2. Marquette University School of Dentistry Services: The state provides funding for patient care provided at the Isaac Coggs Community Health Center, Johnston Community Health Center, St. Luke's Medical Center, Elder Care of Dane County, and the Tri County Community Dental Clinic, in Appleton.
3. Donated Dental Services: Volunteer WDA member dentists serve disabled, medically compromised and aged residents with this program. The program coordinator is funded with State GPR funds at the Wisconsin Dental Association.
4. Madre Angela Clinic – Milwaukee
5. Max W. Pohle Dental Clinic – Meriter Hospital, Madison
6. South Side Guadalupe Dental Clinic, Inc. - Milwaukee
7. Ministry Dental Clinic – Steven's Point
8. AIDS Resource Center of Wisconsin Dental Clinic (Milwaukee)

For more information about the oral health programs in Wisconsin, contact:

Department of Health and Family Services

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